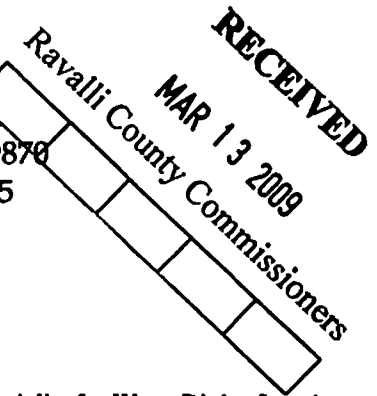




Bitterroot STAR

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Ravalli County Commissioners
March 13, 2009



Dear Editor,

I am writing this in response to a letter written by Lee Yelin, Senior Water Rights Specialist for Water Rights Inc. that can be found on the county's website under Commissioner's correspondence. It was also published as a letter to the editor in the Ravalli Republic on March 5. In the letter Mr. Yelin complains about the placement of the County's legal advertising in the Bitterroot Star.

Mr. Yelin claims that important projects have been delayed because of delays in public notices. "Since the paper comes out weekly and is small, public notices must be received by the Bitterroot Star on the preceding Friday to appear in the Wednesday edition," writes Mr. Yelin.

Sounds bad. But it is not true. The deadline for placing legal advertising in the Bitterroot Star is anytime Monday to be published on Wednesday. I find it seriously disturbing that Mr. Yelin saw fit to publish such a patently false claim. Mr. Yelin is a water rights research consultant. His profession involves researching the facts. But who told him that the deadline for the Star was on Friday? A call to the newspaper or the county would have clarified this for Mr. Yelin. The Bitterroot Star's deadline for advertising, including legal advertising, is anytime Monday for Wednesday publication. It is nothing new. It did not change when we were recently awarded the county legal publishing contract. It has always been on Monday. I wonder what projects really got delayed due to Mr. Yelin's false notion about a Friday deadline?

But if the Friday deadline was not really the problem, what is Mr. Yelin's problem with the Bitterroot Star? It turns out to be with the owner/publisher/reporter Michael Howell. That's me.

Yelin accuses me of biased reporting and gives as his example: "Mr. Howell reported that people would have to fish underneath the home of a private homeowner who had built his house over a natural perennial flowing stream, which is subject to public stream access. That statement was incorrect, the home was built over an irrigation ditch that is not a side channel of the river, and it is 100% diverted water. This is not open to public access. This was presented from his own personal opinion and not fact," writes Yelin.

I have searched my memory and my files and can find no such statement or claim made by me to the effect that anybody would have to fish under anybody's house. But I presume, since Mr. Yelin is the lead consultant for a private landowner along Mitchell Slough who tried unsuccessfully to prove that Mitchell Slough was a ditch, that he is talking about his client's house. The living room of that house extends over the top of Brushy Creek.

I did write a story for the Bitterroot Star about how the Mitchell Slough case had drawn national attention. In that article I quote a reporter from the New York Times who, in his own article, quotes FWP attorney Bob Lane saying that his agency may have to establish a portage route around the living room of that house.

This is not a statement I made. It is a statement made by the lead attorney for FWP to a reporter for the New York Times. The attorney's statement was not a claim made based upon my opinion that Mitchell Slough is not a ditch, but on the opinion of a District Court Judge and the unanimous opinion of the Montana Supreme Court, neither of whom found Mitchell Slough to be a ditch.

I am sure it must be difficult for Mr. Yelin to have so many people recognize that his professional opinion in this case, that Mitchell Slough is a ditch, was really a baseless claim and not substantiated by any of the facts in the case. But why would he have to take it out on me?

Now, apparently, he is interested in claiming that at least one branch of Mitchell Slough, called Brushy Creek, is a ditch. A court ordered survey of Mitchell Slough, done in 1927, however, gives the lie to his latest claim. The survey clearly delineates the various branches of the slough and differentiates them from the ditches that were constructed. It clearly shows Brushy Creek as a branch of Mitchell Slough and not a ditch. It was probably based upon this evidence that the FWP attorney saw the potential need for a portage route around his client's living room.

Before making any more baseless claims I suggest he do a little basic research. For instance, if he had simply called the newspaper or the county, he could have easily verified the real deadline for advertising in the Bitterroot Star. But maybe doing real research is not his forte. In which case he might want to consider some other form of employment.

Michael Howell, Publisher